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PROPOSED NEW CHARTER

City of Pomona

1964

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POMONA CITIZENS CHARTER STUDY COMMITTEE

city charter

Pomona

ARGUMENTS FOR THE POMONA CITY CHARTER PROPOSITION N

FELLOW POMONA VOTERS:

For over a year the Pomona Citizens' Charter Study Committee has been drafting a new Charter for Pomona. The Committee is composed of civic leaders, businessmen, housewives, educators, attorneys, retired persons, doctors, representatives of labor, and the ministry. The Committee's first and only interest has been to secure responsible and democratic city government for the People of Pomona.

Pomona's present Charter was drafted when our city was a small community with a population of 12,000; today it is a city of 80,000 people. The proposed Charter retains the best features of our 1911 Charter and adds a number of new provisions to secure responsible city government.

The new Charter will benefit Pomona citizens in the following ways:

HOME RULE — By guaranteeing Home Rule with maximum independence from the State and Federal governments;

TAX SAVINGS — By providing greater financial control over your tax dollars through the establishment of a Department of Finance;

HIGH QUALITY PERSONNEL — By ensuring that City employees are hired, promoted and retained on the basis of competence;

NON-DISCRIMINATION — By prohibiting discrimination in municipal employment because of race, creed or national origin;

EFFICIENT BUSINESS ADMINISTRATION — By establishing the popular Council-Mayor-Administrator form of government now in effect in more than 64% of California cities;

MORE VOTER CONTROL — By lowering referendum requirements from 20% to 10% of the registered voters.

ORDERLY GROWTH — By requiring comprehensive City Planning to insure orderly growth and a desirable community in which to live and work;

FREE PUBLIC LIBRARY — By giving the Library the maximum degree of freedom from political domination;

DISASTER PREPAREDNESS — By establishing continuity of government in time of disaster.

We respectfully urge your YES vote on the Proposed Charter. It is a document prepared by and for the People of Pomona.

Signed by:

JOHN M. SPERRY, Co-Chairman, Pomona Citizens Charter Study Committee

MRS. HOLLIS FOSTER, Co-Chairman, Pomona Citizens Charter Study Committee

MR. ARTHUR H. COX, Mayor, 1953-1961

MR. JAMES S. BAKER, Mayor, 1961-1963

MR. LESLIE MANN, JR., President, Pomona Chamber of Commerce

MR. HENRY ROMO, Citizen

MRS. GAR SCHNEIDER, President, Pomona League of Women Voters

DR. A. F. HAYES, President, Pomona Valley Ministerial Association

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PROPOSED NEW CHARTER

(Prepared by the Pomona Citizens Charter Study Committee
appointed by the Pomona City Council)

August 1964

CHARTER OF THE CITY OF POMONA CALIFORNIA

ARTICLE I NAME AND SUCCESSION

Section 101. **EXISTENCE AND NAME.** The municipal corporation now existing, and known as the City of Pomona, herein called the City, shall remain and continue a municipal corporation organized and existing under the Constitution of the State of California.

Section 102. **EXISTING REGULATIONS.** All lawful ordinances, resolutions, orders, rules, and other regulations of the City, or portions thereof, in effect at the time this Charter takes effect and not inconsistent or in conflict with the provisions of this Charter, are hereby continued in force and effect until duly repealed, superseded or amended.

Section 103. **RIGHTS AND LIABILITIES.** The City shall remain vested with, and continue to hold, own and control all rights and property of every nature and description held, owned or controlled by it at the time this Charter takes effect, and it shall be subject to all debts, obligations, contracts and other liabilities existing at that time.

Section 104. **PRESENT OFFICERS AND EMPLOYEES.** Each person who, at the time this Charter takes effect, holds an office of the City shall continue to hold the same office under this Charter until his successor is elected or appointed, and is qualified, under this Charter. All employees of the City at the time this Charter takes effect shall continue to perform the duties of their respective employments subject to this Charter and ordinances, resolutions, orders, rules and regulations now existing or hereafter enacted. The rates of compensation of all officers and employees of the City in effect at the time this Charter takes effect shall remain in effect until lawfully changed.

ARTICLE II

BOUNDARIES OF CITY AND COUNCILMANIC DISTRICTS

Section 201. CITY BOUNDARIES. The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, but said boundaries may be changed in the manner prescribed by law.

Section 202. COUNCILMANIC DISTRICTS. The City is hereby divided into four councilmanic districts (formerly called wards) designated and described as follows:

First Councilmanic District — All that portion of the City lying west of the center line of Garey Avenue and north of the right-of-way of the main line of the Southern Pacific Railroad.

Second Councilmanic District — All that portion of the City lying west of the center line of Garey Avenue and south of the right-of-way of the main line of the Southern Pacific Railroad.

Third Councilmanic District — All that portion of the City lying east of the center line of Garey Avenue and south of the right-of-way of the main line of the Southern Pacific Railroad.

Fourth Councilmanic District — All that portion of the City lying east of the center line of Garey Avenue and north of the right-of-way of the main line of the Southern Pacific Railroad.

Section 203. CHANGES IN BOUNDARIES OF COUNCILMANIC DISTRICTS. The boundaries of said councilmanic districts, but not the number thereof, may be changed by ordinance adopted by the Council by a four-fifths vote of all its members; provided, that districts established by the Council shall be as nearly equal in population as practicable, and provided further that the Council shall not change the boundaries of districts more than once in any two-year period and no such change shall be made within the period of one hundred twenty days preceding a general municipal election. The foregoing limitations shall not apply to changes made necessary by annexations to the City. Until such time as the Council has exercised its power to change the boundaries of the districts, territory annexed to the City shall automatically be added to the district or districts within which such territory falls according to the descriptions set forth in Section 202. After the Council has once exercised its power to change the boundaries of districts, territory annexed to the City shall immediately be added to the district specified by ordinance adopted by the Council.

ARTICLE III CITY POWERS

Section 301. **POWERS.** The City shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter and in the Constitution of the State. Nothing in this Charter shall be construed to prevent or restrict the City from exercising or acting pursuant to, and the City is hereby authorized to exercise and act pursuant to, all rights, powers, privileges and procedures heretofore or hereafter established, granted or prescribed by any law of the State or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under said Constitution, unless the exercise thereof, or action pursuant to, is expressly prohibited by this Charter. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions of this section.

ARTICLE IV ELECTIVE OFFICERS

Section 401. **MAYOR AND COUNCILMEN.** The elective officers of the City shall be a Mayor and four Councilmen elected at the times and in the manner provided in this Charter. The Mayor shall serve for a term of two years and until his successor qualifies. Each of the Councilmen shall serve for a term of four years and until his successor qualifies. Candidates for the office of Mayor shall be nominated from the City at large and the Mayor shall be elected by a vote of the electors of the City at large. Each office of Councilman shall be a separate office and one of such offices shall be assigned to each of the four councilmanic districts of the City. Candidates for each office of Councilman shall be nominated from such district by the electors of such district and shall be residents of such district but all Councilmen shall be elected by vote of the electors of the City at large. The Mayor and four Councilmen in office at the time this Charter takes effect shall continue in office until the expiration of the respective terms for which they were elected and until their respective successors are elected and qualified as provided in this Charter. The term of office of each elective officer elected hereunder shall commence at the time of the official canvass and declaration of the results of the election at which he is elected.

The Mayor shall be elected in each odd-numbered year. The Councilmen of the first and fourth councilmanic districts shall be elected in each fourth year after 1963. The Councilmen of the second and third councilmanic districts shall be elected in each fourth year after 1965.

Section 402. ELIGIBILITY. To be eligible to hold the office of Mayor or Councilman, a person must be a citizen of the United States, must be a qualified elector of the City, and must be, and have been for at least one year immediately preceding the date of his election or appointment, a resident of the City. A Councilman must also be a resident of the councilmanic district from which he is nominated at the times he is nominated and elected and for a period of six months prior to the time he is nominated. In the event any Councilman shall cease to be a resident of the district from which he (or, in the case of an appointee, his predecessor) was nominated his office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies; provided, that where a Councilman ceases to be a resident of the district from which he (or, in the case of an appointee, his predecessor) was nominated solely because of a change in the boundaries of any district as in this Charter provided, he shall not lose his office by reason of such change.

Section 403. VACANCIES. If for any reason or cause a vacancy shall occur in any elective office, such vacancy shall be filled as follows:

(a) If such vacancy occurs one year or more before the next general municipal election, the Council shall immediately cause a special election to be held to fill the vacancy.

(b) If such vacancy occurs less than one year but sixty days or more before the next general municipal election, the Council shall appoint a person to fill the vacancy.

(c) If such vacancy occurs less than sixty days before the next general municipal election, the Council may, but is not required, to appoint a person to fill the vacancy, but if the Council fails to fill the vacancy a successor shall be elected at such general municipal election to fill the unexpired term, if any.

(d) Any person elected to fill a vacancy shall serve for the remainder of the entire unexpired term of the former incumbent and until his successor is qualified. Any person appointed to fill a vacancy shall serve until the next general municipal election and until his successor is qualified, and at such general municipal election a successor

shall be elected to serve for the remainder of the unexpired term, if any, and until his successor is qualified.

(e) In any case where the Council is required to cause a special election to be held to fill a vacancy, it may temporarily appoint a person to fill the vacancy until a person is elected at such special election and qualifies, if the Council first determines that such temporary appointment is essential to the proper conduct of city business.

(f) No primary election shall be held to nominate candidates to be voted on at a special election to fill a vacancy. The candidates shall be nominated by electors for election at the special election and the person receiving the highest number of votes shall be deemed elected.

(g) Any person appointed under the provisions of this section to an office of Councilman must at the time of his appointment and for a period of six months prior thereto be a resident of the councilmanic district from which his predecessor was nominated.

(h) If by reason of major disaster or for any other reason all five seats on the Council are vacant, the next immediate past three living Mayors of the City still residing in the City shall, by majority vote or written appointment, appoint a Mayor and four Councilmen who shall temporarily serve as such until their successors are qualified and who shall immediately proceed to cause all of such vacancies to be filled by election or appointment, as the case may be, in the manner provided in this section. The past Mayors so acting may appoint one or more of their own number to serve temporarily as above provided.

Section 404. COMPENSATION. As compensation for their services, the Mayor and Councilmen shall each receive compensation at the respective rates in effect at the time this Charter becomes effective; provided, that these rates of compensation may be changed by majority vote of the electors of the City voting on such change at any City election at which the question of such change may be submitted by the Council or pursuant to the power of initiative, but no reduction in compensation for any such office shall affect the compensation of any person who holds the office at the time such question is voted upon, during the remainder of his then existing term of office. In addition to the foregoing compensation, said officers shall be entitled to reimbursement for their necessary expenses incurred in the performance of their official duties in connection with authorized city business.

Section 405. ABSENTEES. If the Mayor or any Councilman shall absent himself from the City or from all regular meetings of the

Council for any period of more than thirty days consecutively, without the consent of the Council entered in its minutes, or if any such officer is convicted of a crime involving moral turpitude, the Council shall declare the office vacant. The Council shall not grant such consent to any such officer for a longer period than sixty days except for the purpose of attending to official City business, but any such consent may be renewed if good and sufficient reasons exist.

Section 406. MAYOR. The Mayor, in addition to the powers and duties prescribed elsewhere in this Charter, shall have the power and duty:

(a) To report to the Council from time to time on the affairs of the City and to recommend for its consideration such matters as he may deem expedient.

(b) To be the official head of the City for all ceremonial purposes.

(c) To assume the primary but not the exclusive responsibility for interpreting to the people the policies, programs and needs of the City government and for informing the people of any major change in policy or program.

(d) To exercise and perform such other powers and duties as may be delegated to or required of him by this Charter or by the Council if not inconsistent with the provisions of this Charter.

ARTICLE V THE COUNCIL

Section 501. POWERS. All powers of the City shall be vested in the Council except as otherwise provided in this Charter.

Section 502. COMPOSITION. The Council shall consist of the Mayor and the four Councilmen, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council. The Mayor shall be the presiding officer of the Council. The Council shall designate one of the Councilmen as Vice-Mayor and in case of the temporary absence or disability of the Mayor or during such period as a vacancy exists in the office of Mayor, the Vice-Mayor shall preside at Council meetings and perform such other of the duties of the Mayor as the Council may assign to him.

Section 503. MEETINGS. The Council shall hold regular meetings at such times as may be prescribed by ordinance or resolution

and may adjourn or readjourn any regular meeting to a date and hour fixed in the order of adjournment, and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. Special meetings may be held as provided by law.

Section 504. PLACE OF MEETING. All meetings of the Council shall be open to the public, and shall be held in the Council Chambers in the City Hall or in such place to which any such meeting may be adjourned; provided, that if by reason of fire, flood or other emergency it shall be unsafe or impractical to meet at the regular meeting place, the Council may for the duration of the emergency meet at some other place designated in writing by the Mayor or, if he fails to act, by any three Councilmen.

Section 505. PROCEEDINGS AND QUORUM. A majority of the then members of the Council shall constitute a quorum for the transaction of business at any meeting, but a lesser number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as the Council may by ordinance prescribe. In the event all members of the Council are absent from any meeting, the City Clerk may declare the same adjourned to a stated day and hour in the manner provided by law. The Council shall judge the qualifications of its members as such qualifications are provided in this Charter. It shall judge all returns of City elections. It shall establish rules for the conduct of its proceedings and may evict any member or any other person for disorderly conduct at any meeting and may prosecute any member or other person for such conduct.

Each member of the Council and the City Clerk shall have the power to administer oaths and affirmations in any investigation or proceedings pending before the Council. The Council shall have the power to issue subpoenas, to compel by subpoena the attendance of witnesses and the production of documents and other evidence, to examine witnesses under oath and to take and hear evidence, in relation to any matter pending before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of any subpoena or the refusal to testify upon other than legal grounds shall constitute a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable.

No action for the payment of money shall be taken at other than a regular or adjourned regular meeting.

The City Clerk shall call the roll and cause the ayes and noes to be entered in the minutes upon demand of any member or in the case

of any action for the adoption of an ordinance, the payment of any money, the incurring of any debt, the appointment or removal of any officer, the granting of any franchise, the making of any contract, the ordering of work to be done or supplies to be furnished, the disposing of or leasing of City property, and the ordering or confirmation of any assessment for public improvements.

Section 506. CITIZEN PARTICIPATION. At each regular meeting the Council shall, if requested, grant any person, personally or through counsel, reasonable opportunity to present grievances or offer suggestions for the betterment of City affairs, subject to such rules for orderly procedure as the Council or its presiding officer may prescribe.

Section 507. VOTE REQUIRED. Except in cases where a higher vote is required by other provisions of this Charter, the affirmative votes of at least three members of the Council shall be required for the adoption of any ordinance or resolution or for the taking of any action which under Section 506 requires the taking of ayes and noes by roll call, except actions requiring the taking of ayes and noes solely by reason of the demand of a member. Other actions may be taken by majority vote of the members present. A vacancy on the Council, when it may be filled by appointment, may be filled by majority vote of the then members of the Council.

Section 508. ADOPTION OF ORDINANCES AND RESOLUTIONS. No ordinance, except ordinances which under this Charter may take effect upon adoption, shall be adopted by the Council on the day of its introduction nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall be delivered into the custody of the City Clerk. At the time of its adoption an ordinance or resolution shall be read in full unless, after the reading of the title thereof, the further reading is waived by unanimous consent of the members of the Council present. In the event that any ordinance is altered after its introduction it shall not be adopted within five days after it is altered nor at any time other than at a regular or adjourned regular meeting; provided, that the correction of typographical or clerical errors shall not be deemed an alteration within the meaning of this sentence.

The enacting clause of ordinances adopted by the Council shall be substantially as follows: "Be it ordained by the Council of the City of Pomona as follows:"

All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Section 509. PUBLICATION OF ORDINANCES. All ordinances shall be published at least once in a newspaper published in the City within fifteen days after its adoption. In the event there is no newspaper published in the City, then ordinances shall be posted in three public places in the City within said time.

Section 510. WHEN ORDINANCES MAY BECOME EFFECTIVE. No ordinance adopted by the Council shall become effective until thirty days from and after the date of its adoption, except the following, which may take effect upon adoption or at such other time as the Council may specify therein:

(a) An ordinance calling or otherwise relating to an election.

(b) An ordinance relating to a local improvement proceeding adopted under some law or procedural ordinance, or providing for the issuance of or otherwise relating to bonds of the City authorized by vote of its electors.

(c) An ordinance fixing or declaring the amount of money to be raised by taxation, or fixing rates of taxation, or levying the annual tax upon property.

(d) An ordinance declared by the Council to be necessary for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and passed by a four-fifths vote of the Council.

(e) Any other ordinance which the Constitution of the State or this Charter does not require be subject to the power of referendum.

The provision of any ordinance specifying an effective date less than thirty days from and after the date of its adoption shall be severable, and if invalid, such provision shall not affect the validity of the remainder of the ordinance and such ordinance shall take effect thirty days from and after the date of its adoption unless suspended by exercise of the power of referendum.

Section 511. CODIFICATION OF ORDINANCES. Any or all ordinances of the City which have been adopted and published in the manner required at the time of their adoption may at any time be compiled, consolidated, and rearranged as an ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the adoption of an ordinance for that purpose. Such code need not be published in the manner prescribed for other ordinances but not less than three copies thereof shall be on file in the office or the City Clerk, for the use and examination of the public, for

at least ten days prior to the adoption of such code. Ordinances or portions of ordinances so codified shall be deemed repealed as of the effective date of such code. Following the adoption of such code, amendments to the code shall be adopted and published as ordinances. The codification of some ordinances pursuant to this section shall not prevent the later codification of other ordinances in the same manner.

Detailed regulations pertaining to any subject such as the construction of buildings, plumbing, wiring or other subjects which require extensive regulations, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section. Maps, charts, diagrams and similar material pertaining to or a part of any ordinance may also be adopted by reference in the same manner.

ARTICLE VI CITY ADMINISTRATOR

Section 601. OFFICE AND APPOINTMENT. There shall be a City Administrator who shall be the chief administrative officer of the City and who shall be appointed by the affirmative vote of a majority of all then members of the Council. In the selection of a City Administrator the Council shall invite applications by qualified and available persons and shall carefully consider and screen all applicants to the end that the person appointed shall be the one the Council considers to be the best qualified on the basis of his executive and administrative qualifications, with special reference to his experience in, and knowledge of, accepted practice in respect to the duties of the office as set forth in this Charter. The City Administrator shall serve at the pleasure of the Council and may be removed at any time by the affirmative vote of a majority of all members of the Council. He shall devote his full time to the discharge of his official duties. He shall be paid a salary fixed by the Council, which salary shall be commensurate with his responsibilities.

Section 602. ELIGIBILITY. The City Administrator need not be a resident of the City at the time of his appointment but he shall establish his residence within the City within six months after his appointment, unless for good cause shown such period is extended by the Council, and he shall thereafter maintain his residence within the City during his tenure of office. No person shall be eligible to appointment

as City Administrator while serving as a member of the Council nor within three years after he has ceased to be such member.

Section 603. POWERS AND DUTIES. The City Administrator shall be the head of the administrative branch of the City government and shall be responsible to the Council for the proper administration of the affairs of the City. Without limiting the generality of the foregoing sentence, the City Administrator shall have the power and duty:

(a) To appoint, and when he deems necessary, to suspend or remove, but subject to the personnel merit system provisions of this Charter, the Assistant City Administrator, the Director of Finance and all other officers and department heads of the City except elective officers and except those officers and department heads the power of whose appointment is vested in the Council or in the Board of Library Trustees; provided, that all such appointments and removals shall be subject to the approval of the Council before becoming effective, but provided, further, that a temporary appointment for a period not to exceed sixty days may be made by the City Administrator without Council approval.

(b) To serve as the chief personnel officer of the City and to administer the personnel merit system.

(c) To prepare annually the proposed budget, submit such proposed budget to the Council and be responsible for the administration of the budget after adoption.

(d) To prepare and submit to the Council as of the end of each fiscal year, and at such other times as directed by the Council, a comprehensive report regarding the administrative activities of the City.

(e) To keep the Council advised from time to time of the financial condition and future needs of the City and to make such recommendations as he may deem desirable.

(f) To prepare rules and regulations governing the contracting for, purchasing, storing, distribution, use or disposal of all supplies, materials, equipment or other property or services required by the City or any office, department or branch of the City government, and to recommend such rules and regulations to the Council for adoption.

(g) To see that all laws of the State pertaining to the City, the provisions of this Charter and ordinances of the City are enforced.

(h) To prescribe such general administrative rules and regulations, consistent with this Charter and City ordinances, as he may deem necessary or proper for the general conduct of the administrative offices and departments under his control.

(i) To attend all Council meetings unless he is excused from attendance by the Council or unless he is unable to attend because of sickness or absence from the City on official business, and to participate in the deliberations of the Council but without the right to vote.

(j) To exercise and perform such other powers and duties as may be prescribed by this Charter or which may be delegated to or required of him by the Council if not inconsistent with the provisions of this Charter.

Section 604. ASSISTANT CITY ADMINISTRATOR. There shall be an Assistant City Administrator who shall exercise and perform the powers and duties of the City Administrator during the absence or disability of the City Administrator or during a vacancy in that office; provided, that during a vacancy in such office the Council may temporarily appoint some other officer or department head of the City as Acting City Administrator to exercise and perform the powers and duties of such office, or such portion thereof as the Council may specify. During the absence or disability of the Assistant City Administrator or during a vacancy in that office the City Administrator may appoint some other officer or department head of the City as Acting Assistant City Administrator to exercise and perform the powers and duties of such office or such portion thereof as the City Administrator may specify.

ARTICLE VII

OTHER OFFICERS, DEPARTMENTS AND EMPLOYEES AND PROVISIONS RELATING TO OFFICERS GENERALLY

Section 701. OTHER OFFICERS TO BE APPOINTED BY COUNCIL. There shall be a City Clerk, a City Attorney, and a City Treasurer, each of whom shall be appointed by the affirmative vote of a majority of all then members of the Council, shall serve at the pleasure of the Council and may be removed at any time by the affirmative vote of a majority of all then members of the Council; provided, that persons elected to and holding the offices of City Auditor (ex-officio City Clerk), City Assessor (ex-officio City Treasurer) and City Attorney at the time this Charter becomes effective shall continue to hold the offices of City Clerk, City Treasurer and City Attorney, respectively, under this Charter for the remainder of the term for which each was elected and thereafter as appointed officers subject to the provisions of this section. A person appointed to any of the offices

provided for in this section need not be a resident of the City at the time of his appointment but he shall establish his residence within the City within six months after his appointment, unless for good cause shown such period is extended by the Council, and he shall thereafter maintain his residence within the City during his tenure of office; provided, however, that a person appointed to the office of City Attorney shall be exempt from the foregoing residence requirement if he has, for the period of one year next preceding his appointment, continuously maintained within the City an office for the practice of law, either alone or as a member or associate of a law firm.

Section 702. CITY CLERK. The City Clerk shall have the power and duty:

(a) To attend, in person or by deputy, each meeting of the Council and to record and keep a full and true record of all proceedings of the Council.

(b) To keep and maintain separate books in which shall be recorded all ordinances and resolutions, with his certificate attached to each thereof stating the same to be the original or a correct copy thereof, and also to keep and maintain separate books in which there shall be recorded all contracts and official bonds.

(c) To keep and maintain appropriate affidavits or other instruments evidencing the publication or posting of all ordinances in accordance with the provisions of this Charter.

(d) To have the custody of, and be responsible for, all contracts, papers, bonds, instruments and other records belonging to the City, except those of the foregoing which by the provisions of this Charter or by order of the Council are required or permitted to be kept in the custody of other officers or departments.

(e) To keep all records of the City in his custody in orderly arrangement and properly indexed and open to public inspection.

(f) To be the custodian of the seal of the City.

(g) To have charge of all City elections.

(h) To administer oaths and affirmations, to take affidavits and depositions pertaining to City affairs, and to certify copies of official City records.

(i) To exercise and perform such other powers and duties as may be delegated to or required of him by this Charter, by state law or by the Council if not inconsistent with the provisions of this Charter.

Section 703. CITY ATTORNEY. To be and remain eligible to hold the office of City Attorney the holder of the office must be an

attorney-at-law duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law for at least five years prior to his appointment.

The City Attorney shall have the power and duty:

(a) To prosecute on behalf of the people all criminal cases for violations of provisions of this Charter and ordinances of the City, and such misdemeanor offenses for violations of laws of the State occurring within the City as in his opinion or in the opinion of the Council warrant his attention.

(b) To represent and advise the Council and all City officers, departments, boards and commissions, and to give his advice or opinion in writing when so requested by any of the foregoing.

(c) To represent and appear for the City in any action or proceeding in which the City is a party or is otherwise interested or concerned.

(d) To represent and appear for any City officer or employee or former City officer or employee, in any action or proceeding in which any such officer or employee is a party or otherwise concerned in his official City capacity; provided, that where such interest or concern of any such officer or employee in any such action or proceeding is adverse to the City or some other officer or employee of the City, the Council shall determine what party or person the City Attorney shall represent and shall provide special counsel for the other party or person.

(e) To attend, in person or by deputy, all regular meetings of the Council and such other meetings thereof as he or the Council deem to require his presence, and at any such meeting to keep the Council fully advised as to the law affecting or relating to the actions or proposed actions of the Council.

(f) To prepare ordinances and resolutions as requested of him by the Council.

(g) To approve, by endorsement thereon, in writing, the form of all proposed ordinances, resolutions, contracts and bonds.

(h) To surrender to his successor all books, papers, correspondence, files and other documents in his possession which pertain to City affairs.

(i) To perform such other duties pertaining to the legal affairs of the City as may be required by this Charter or by the Council if not inconsistent with the provisions of this Charter.

The Council shall have control over all litigation and other legal business or proceedings relating to or affecting the City and it may

employ other attorneys to take charge of any such litigation or matter or to assist the City Attorney therein.

Section 704. CITY TREASURER. The City Treasurer shall have the power and duty:

(a) To receive all taxes, assessments, license fees and other moneys, revenues and funds coming to the City or any officer, department, board, commission, or employee thereof and belonging to the City or for which the City is responsible for collection or custody.

(b) To have custody of all money and funds belonging to or under the control of the City or any office, department, board, commission, or other agency of the City, and to deposit all money and funds coming into his hands in such depository or depositories as may be designated by resolution of the Council or, in absence of such designation, in such depository as may be designated by the City Administrator, all subject to and in compliance with the provisions of the Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) To disburse moneys and funds under his control on demands audited in the manner provided for in this Charter.

(d) To prepare and submit to the Director of Finance monthly a written statement and report of all receipts and disbursements during the preceding calendar month and the fund balances at the end of such month, a copy of which shall be filed with the City Administrator.

(e) To make special reports from time to time as may be required by the Council or the City Administrator.

(f) To be, subject to procedures established by the Council by ordinance, ex-officio City Assessor and City Property Tax Collector, unless the City continues to avail itself or does in the future avail itself of the provisions of the laws of the State relative to the assessment of property and the collection of City property taxes by County officers, or unless the Council by ordinance provides otherwise.

(g) To exercise and perform such other powers and duties as may be delegated to or required of him by this Charter or by the Council if not inconsistent with the provisions of this Charter.

Section 705. DEPARTMENT AND DIRECTOR OF FINANCE. There is hereby established within the City government a Department of Finance under the jurisdiction of a Director of Finance who, as head of such department, shall have the power and duty:

(a) To act as the general accountant, controller and chief fiscal

officer of the City and as such to have, under the direction and supervision of the City Administrator, charge of the administration of the fiscal affairs of the City.

(b) To keep and maintain books, accounts and a general accounting system for the City and each of its offices, departments, boards, commissions and other agencies.

(c) To supervise, be responsible for, and control expenditures to insure that budget appropriations are not exceeded.

(d) To audit all purchase orders before issuance, to audit and approve before payment, all bills, invoices, payrolls, demands and charges against the City and, with the advice of the City Attorney when necessary, to determine the regularity, legality and correctness of such claims, demands and charges.

(e) To submit to the Council through the Administrative Officer a monthly statement of receipts, disbursements, and balances in sufficient detail to show the general financial condition of the City.

(f) To submit to the Council through the City Administrator as of the end of each fiscal year, a complete financial statement and report for such year.

(g) To compile the budget expense and income estimates and otherwise assist the City Administrator in the preparation of the annual budget.

(h) To exercise and perform such other powers and duties as may be delegated to or required of him by this Charter or by the Council if not inconsistent with the provisions of this Charter.

Section 706. ADMINISTRATIVE ORGANIZATION. The Council shall, by ordinance not inconsistent with the provisions of this Charter, provide for the organization, conduct and operation of the several officers and departments of the City created or established by this Charter, and for the organization, conduct and operation of additional offices, departments, and divisions thereof which the Council may create or establish pursuant to this Charter.

Subject to the provisions of this Charter, the Council shall, by ordinance, provide for the number, titles, qualifications, powers, duties and compensation of all officers, deputies, and employees of the City. As far as practicable, the Council shall require that officers, deputies and employees of the City shall be or become residents of the City.

Section 707. ADDITIONAL OFFICERS AND DEPARTMENTS. The Council shall, by ordinance not inconsistent with the provisions of this Charter, create and establish such offices, departments and divi-

sions thereof (additional to those created or established by this Charter) as in the opinion of the Council may be required for the proper administration and conduct of City affairs, and may from time to time alter, consolidate or abolish the same. Each office and department so established shall be headed by an officer or department head who shall be appointed, and may be suspended or removed as provided in this Charter.

Section 708. COMBINING OF OFFICES AND DEPARTMENTS. Where the positions are not in fact incompatible, the Council may, subject always to the restrictions of this Charter, combine under one officer or person the powers and duties of two or more offices or departments created or authorized by this Charter, except that no office or department shall be so combined with any other office or department where the officers who head the same are, under the provisions of this Charter, to be appointed by different persons or bodies or in a different manner one from the other.

Section 709. POWER OF APPOINTMENT BY OFFICERS AND DEPARTMENT HEADS. Subject to the provisions of this Charter, including the personnel merit system provisions hereof, each officer and each department head shall have the power and duty to appoint, and when he deems necessary, to suspend or remove, such deputies, assistants, subordinates and employees as are provided by the Council for his office or department; provided, that each such appointment and removal shall, before becoming effective, receive a favorable certification of the City Administrator as in this Charter provided.

Section 710. NEPOTISM. The Council shall not appoint any person to any salaried position in the City government who is a relative by blood or marriage within the third degree of any member of the Council, nor shall the City Administrator nor any officer or department head appoint any relative of his within such degree to any such position.

Section 711. ADMINISTERING OATHS. Each officer and his deputies and department head and his deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his office or department.

Section 712. OFFICIAL BONDS. The Council shall, by ordinance, fix the amounts and terms of the official bonds of all officials and employees of the City who are required by this charter or by ordinance to give such bonds. All bonds shall be executed by a responsible corporate surety, shall be approved by the City Attorney as to

form, and shall be filed with the City Clerk, except that any bond of the City Clerk shall be filed with the Director of Finance. The premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior official, or on his bond, for any wrongful act or omission of his subordinate, unless such superior official was a party to, or conspired in, such wrongful act or omission.

Section 713. POLITICAL ACTIVITY. Whoever, being a City officer or being in nomination for or while seeking election or appointment to any City office, shall use or promise to use, directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, to aid any other person to secure any office or appointment in the service of the City or any increase of salary, upon the condition that such other person's vote or political influence shall be given or used in behalf of any candidate, officer or political party or association, or upon any other corrupt condition, shall be guilty of a misdemeanor. Every person found guilty of such misdemeanor as aforesaid, shall upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars or more than one thousand dollars, or to be imprisoned not less than ten days or more than one year, or to both said fine and said imprisonment in the discretion of the court. If the person convicted be a public officer, he shall, in addition to any other punishment imposed, be deprived of his office and be forever debarred and disqualified from holding any position in the service of the City.

No officer or employee of the City, except elective officers, shall become a party worker or solicitor in any City election on behalf of any other person running for a City office, and any violation of this provision shall be sufficient cause for his removal from office.

Section 714. REPORTS. Each officer and each department head shall submit to the City Administrator as of the end of each fiscal year a full report of all operations of his office or department for that year, and shall from time to time make such other reports on the operations of his office or department as the City Administrator may require.

Section 715. HOLDING MORE THAN ONE OFFICE OR POSITION. One person may hold two or more offices or positions in the City government except where prohibited by other provisions of this Charter and except as follows:

(a) No person shall hold two offices or positions which are in fact incompatible.

(b) No person shall hold both the office of City Treasurer and Director of Finance.

(c) Except where expressly permitted by this Charter, no member of the Council shall hold any other City office nor shall he hold any other office, position or employment for which compensation is paid out of City moneys, nor shall he be eligible to be elected or appointed, within one year after the expiration of the term for which he was elected or appointed as a member of the Council, to any office or position which was created, or the compensation for which was increased, while he was a member of the Council.

Section 716. NON-DISCRIMINATION. No appointment to or removal from any office, position or employment in the City government shall be made or withheld by reason of any religious or political opinions or affiliations, or by reason of race or color, of the person whose appointment or removal is under consideration or, except as otherwise provided in this Charter, by reason of his previous political services, and no transfer, promotion, demotion or change in compensation of any officer or employee shall be made or withheld by reason of any such opinions, affiliations, race, color or services; provided, however, that no officer, department head or employee of the City shall belong to or be a member of any party, organization, or association which advocates the overthrow of the government or Constitution of the United States by force or violence.

Section 717. OATH OF OFFICE. Each officer and employee of the City, including each member of a board of commission of the City, before entering upon his duties, shall take the oath of office required by the Constitution of the State of California and shall file the same with the City Clerk.

Section 718. ABSENTEES. If any officer or department head of the City, other than a member of the Council or any board or commission of the City, shall absent himself from the City, or from the place or places therein where he is required to perform his duties, for more than ten days consecutively, without the consent of the Council entered in the minutes, the Council may declare the office vacant; provided, that this restriction shall not apply to authorized vacation or leave periods. The Council shall not grant such consent to any such officer for a longer period than sixty days except for the purpose of attending to official City business, but any such consent may be renewed if good and sufficient reasons exist.

Section 719. PERSONNEL MERIT SYSTEM. The Council

shall by ordinance establish a personnel merit system for the selection, employment, classification, advancement, suspension and discharge of those appointive officers and employees who may be included in the system. The system may consist of the establishment of minimum standards of employment and qualifications for the various classes of employment, or it may consist of a comprehensive system, as the Council shall determine to be for the best interests of the public service. The ordinance shall designate which offices and departments and which officers and employees are to be included within the system. By subsequent ordinances the Council may amend the system or the list of departments, offices, officers and employees included therein. The system shall comply with all other provisions of this Charter.

Section 720. RETIREMENT SYSTEM. Authority and power are hereby vested in the City, its Council and its several officers, agents and employees to do and perform any act, and to exercise any authority granted, permitted or required under the provisions of the State Employee's Retirement Law, as it now exists or may hereafter be amended, to enable the City to continue as a contracting City under the State Employees' Retirement System. The Council may terminate any contract with the Board of Administration of the State Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City voting on such proposition at an election at which such proposal is presented.

ARTICLE VIII

APPOINTIVE BOARDS AND COMMISSIONS

Section 801. IN GENERAL. There shall be a Board of Library Trustees which shall be appointed and which shall have the powers and duties as in this article provided. In addition the Council, by ordinance, may create such additional boards and commissions within the City government as in its judgment are required, may abolish or change the same, may provide for the number, additional qualifications, manner of appointment, terms of office if any, compensation if any, and removal of the members thereof, and may grant to such boards and commissions such powers and duties as are consistent with the provisions of this Charter. Each board or commission shall keep adequate records of its activities and minutes of its meetings and shall file copies thereof with the City Clerk. The Council, acting through a planning commission or otherwise, shall at all times provide for

adequate city planning, including an appropriate master plan and proper zoning regulations.

Section 802. **QUALIFICATIONS.** Each member of a board or commission created by or pursuant to the provisions of this article, including the Board of Library Trustees, shall be a qualified elector of the City and no voting member of any such board or commission shall hold any other office or position in the City government for which compensation is paid; provided, however, that in the case of a board or commission other than the Board of Library Trustees not more than one member of the Council may be a voting member thereof at any one time. All appointments of members of boards and commissions, including the Board of Library Trustees, shall be made without regard to race, creed, color, national origin, sex or political affiliation.

Section 803. **ABSENTEES.** If any member of any board or commission created by or pursuant to the provisions of this article shall absent himself from the City, or from all regular meetings of the board or commission of which he is a member, for any period of more than thirty days consecutively, without the consent of the Council entered in its minutes, or if any such member is convicted of a crime involving moral turpitude, the Council may declare the office vacant. The Council shall not grant such consent to any such officer for a longer period than sixty days except for the purpose of attending to official City business, but any such consent may be renewed if good and sufficient reasons exist.

Section 804. **ISSUANCE OF SUBPOENAS AND ADMINISTERING OATHS.** Each member of, and any person who performs the duties of clerk or secretary of, any board or commission created by or pursuant to this article shall have the power to administer oaths and affirmations in any investigation or proceedings pending before such board or commission. Each such board or commission shall have the power to issue subpoenas, to compel by subpoena the attendance of witnesses and the production of documents or other evidence, to examine witnesses under oath and to take and hear evidence, in relation to any matter pending before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of any subpoena or the refusal to testify upon other than legal grounds shall constitute a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable.

Section 805. **BOARD OF LIBRARY TRUSTEES.** The public library known as the Pomona Public Library shall be under the control

and management of a Board of Library Trustees consisting of five members, each of whom shall be appointed by the Council for a term of four years, except that in the case of a vacancy the Council shall appoint a member to serve for the unexpired term of his predecessor. The position of member of such board shall be one of honorary trust without salary or compensation. In addition to the other qualifications provided in this article, each member must be not less than twenty-five years of age and shall have been a resident of the City for at least one year prior to his appointment.

Section 806. ORGANIZATION AND PROCEDURE FOR BOARD OF LIBRARY TRUSTEES. The Board of Library Trustees shall elect one of its members as its president and shall appoint a secretary who may, but need not, be a member of the Board. The president and secretary shall serve at the pleasure of the Board. The Board shall hold regular meetings at such times, not less than four times each year, as it may prescribe by resolution or order. A majority of the then Board shall constitute a quorum for the transaction of business at any meeting but a lesser number may adjourn from time to time. All meetings of the Board shall be open to the public and shall be held at such place as the Board shall from time to time specify by resolution or order. The secretary shall keep and maintain a complete record of all proceedings of the Board. Subject to the provisions of this article, and applicable provisions of law, the Board shall establish such rules for the conduct of its proceedings as it may deem necessary.

Section 807. POWERS AND DUTIES OF BOARD OF LIBRARY TRUSTEES. Except as otherwise provided in this Charter, the Board of Library Trustees shall have the exclusive power and duty to administer and govern the library and library department, to determine the policies under which the same shall be operated, and to exercise and perform such powers and duties consistent with this section as may be necessary or desirable for the proper administration and government of the library and the library department.

The foregoing provision is subject to the following provisions and restrictions:

(a) The Council shall have the sole power to fix the tax rate for the department.

(b) The annual budget for the department shall be part of the annual city budget to be adopted by the Council. The Board shall prepare and submit annually to the Council through the

Director of Finance and the City Administrator, as in this Charter provided, estimates of the income to and expenses of the department for the ensuing fiscal year and a proposed budget for the department for such year and the Council shall consult with the Board before adopting the final budget.

(c) Subject to the exceptions stated in this Charter, the City Treasurer shall have custody of all money and funds of the department.

(d) The Director of Finance shall be the chief accounting officer for the department and shall maintain its books and records of revenue and expenditures which shall be subject to audit and control as in the case of other departments of the City.

(e) The Council shall have the power to establish the number, position classifications, qualifications and compensation of all non-professional employees of the department and the personnel merit system shall apply to such employees. "Non-professional employees" means employees who are not required to have, for the proper performance of their duties, previous professional education or experience in the field of library operation.

(f) The provisions of this Charter shall apply to the purchase of all supplies and other property for the department except books, journals, publications, maps, audio-visual equipment and other personal property peculiar to the operation of the department.

(g) The Council shall have jurisdiction and control over the acquisition or construction of all buildings or other public works for the department.

ARTICLE IX

BOARD OF EDUCATION

Section 901. BOARD OF EDUCATION. There shall be a Board of Education, consisting of such members, not less than five, as may now or hereafter be provided by the Education Code of the State of California, who shall be elected at elections called, held and conducted as now or hereafter provided in said Education Code.

The qualifications, terms of office, compensation and removal of the members of the Board of Education, and the causes for and the filling of vacancies thereon, shall be governed by the provisions of said Education Code.

ARTICLE X

ELECTIONS

Section 1001. PRIMARY ELECTIONS. For the purpose of nominating candidates to be voted upon at the general municipal election and for such other purposes as the Council may prescribe, a primary election shall be held in the City on the second Tuesday of March preceding the general municipal election.

Section 1002. GENERAL MUNICIPAL ELECTIONS. For the election of elective officers under this Charter and for such other purposes as the Council may prescribe, a general municipal election shall be held in the City on the second Tuesday of April in each odd-numbered year.

Section 1003. SPECIAL ELECTIONS. Any other municipal election held in the City under the authority of this Charter, the Constitution of the State, or any law under which the City may act, shall be known as a special municipal election. A special election shall be called by the Council by ordinance or resolution.

Section 1004. GENERAL PROCEDURE. Except as otherwise provided in this Charter and except as may otherwise be provided by ordinance enacted by the Council and not inconsistent with the provisions of this Charter, all municipal elections shall be held, canvassed, conducted and otherwise governed by the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended or superseded, governing municipal elections. The conduct of all City elections shall be under the control of the Council, and the Council shall by ordinance or resolution provide for the holding of each City election and shall for each election provide for a convenient number of precincts and polling places therein, and shall appoint a convenient number of election officers for each polling place, each of whom shall receive such compensation as the Council shall fix.

Section 1005. NOMINATIONS BY ELECTORS. Except as otherwise provided in this Charter and, in particular, except as otherwise provided in the provisions hereof relating to the nomination of Councilmen by the electors of councilmanic districts, candidates nominated by electors for an elective office to be voted on at any primary election shall be nominated in accordance with the provisions of the Elections Code of the State of California, as the same now exist or

may hereafter be amended, or superseded, governing the nomination of candidates for elective offices in general law cities.

Section 1006. NOMINATIONS AT PRIMARY ELECTION FOR GENERAL ELECTION. Subject to the provisions of Section 1007, candidates for elective City offices to be voted on at the general municipal election shall be nominated at the primary election as herein provided and no name shall be printed upon the ballot for the general municipal election other than those selected at the primary election as herein provided, but nothing in this section shall be construed to prevent a voter from voting, either at the primary election or at the general election, for any qualified person whose name does not appear upon the ballot, by writing such person's name on the ballot in a blank space to be provided on the ballot under each office to be voted on. The two candidates receiving the highest number of votes for a given office at the primary election shall be the candidates, and the only candidates, for such office whose names shall be printed upon the ballot used at the general municipal election.

Section 1007. ELECTION AT PRIMARY. If at the primary election any candidate for an elective office receives a majority of the total number of votes cast for all candidates for such office, he shall be deemed elected to such office with the same force and effect as if he had been elected at the general municipal election and such office shall not appear upon the ballot at the general municipal election. If a person is so elected at the primary election to each of the offices to be filled, the general election shall not be held.

Section 1008. BALLOTS. At the primary election and at the general municipal election, the office of Mayor shall appear first upon the ballot, followed by such offices of Councilmen as are to be voted on, in the numerical order of the numbers of the Councilmanic districts to which they relate, and the names of the candidates for each office shall appear upon the ballot in alphabetical order. There shall be nothing on any ballot indicative of the party affiliation or support of any candidate.

Section 1009. ELECTIONS TO FILL VACANCIES. Where because of a prior vacancy a successor is to be elected to any office to serve for the remainder of an unexpired term, or until the next general election, as the case may be, such office shall appear on the ballot at the primary election, the general election or special election, with a designation that it is a short term to fill a vacancy.

ARTICLE XI

REVENUE, TAXATION AND FISCAL ADMINISTRATION

Section 1101. **FISCAL YEAR.** Unless otherwise provided by the Council by ordinance, the fiscal year of the City shall begin on the first day of July of each year and end on the next following thirtieth day of June.

Section 1102. **CAPITAL PROGRAM REPORT.** At the time the City Administrator submits to the Council the proposed budget for the next ensuing fiscal year, or prior thereto, he shall submit to the Council a report showing:

(a) The capital improvements proposed to be undertaken during the next ensuing fiscal year and the then estimated cost of, and the proposed method of financing, each of said capital improvements, and

(b) The additional capital improvements which he recommends be undertaken during the four fiscal years next following the ensuing fiscal year and the then estimated cost of, and the proposed method of financing, each of said additional capital improvements.

Section 1103. **PREPARATION OF PROPOSED ANNUAL BUDGET.** On or before such date in each year as the City Administrator shall determine, each officer and department head and each board and commission shall submit to the City Administrator through the Director of Finance in writing estimates of the expenditures deemed required for the administration and proper conduct of his office or department or such board or commission, as the case may be, during the next ensuing fiscal year, and also estimates of any revenue expected to accrue to the City through such office, department, board or commission during such year. Such estimates shall be in such form and detail as may be prescribed by the City Administrator. The City Administrator with the advice and assistance of the Director of Finance shall review such estimates, hold conferences thereon with the respective officers, departments, boards and commissions and may revise the estimates as he may deem advisable.

Section 1104. **SUBMISSION OF PROPOSED BUDGET TO COUNCIL AND FIXING OF HEARING THEREON.** At least thirty-five days prior to the beginning of each fiscal year, the City Administrator shall submit to the Council the proposed budget as prepared by him. After reviewing the same and making such revisions as it may deem advisable, the Council shall fix a time for holding a public hearing thereon and shall cause to be published a notice of

such hearing not less than ten days prior to the date fixed therefor, by at least one insertion in a newspaper published in said City. In the event there is no newspaper published in the City, said notice shall be posted in three public places in the City at least ten days prior to said hearing. At least ten days before said hearing copies of such proposed budget shall be available in the office of the City Clerk for inspection by any interested person.

Section 1105. HEARING ON AND ADOPTION OF BUDGET. The hearing on the proposed budget shall be held before the Council at the time so fixed and may be continued from time to time by order entered on the minutes, and at such hearing the Council shall hear all persons desiring to be heard thereon. After the conclusion of such hearing the Council shall further consider the proposed budget, may make any revisions therein it deems advisable, and prior to the first day of the fiscal year to which the budget is to apply shall adopt a budget for such year. A copy of such budget, certified by the City Clerk as having been adopted by the Council, shall be placed on file in the office of the City Clerk and shall be there available for public inspection. A further copy, likewise certified, shall be filed with the Director of Finance. Copies of the budget shall be made available for the use of each office, department, board and commission of the City.

Section 1106. FAILURE TO ADOPT A BUDGET. If the Council fails to adopt a budget for any fiscal year prior to the first day of such year the amounts appropriated for current operation for the prior fiscal year shall be deemed adopted for the current fiscal year on a month to month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the current fiscal year.

Section 1107. EFFECT OF AND AMENDMENT OF BUDGET. The adoption of the budget shall constitute an appropriation to the several offices, departments, boards and commissions for the respective objects and purposes named therein. All appropriations shall lapse at the end of the fiscal year to which the budget applies to the extent that they shall not have been expended or lawfully encumbered. At any time following the adoption of the budget the Council, by the affirmative vote of at least three members, may amend or supplement the budget to authorize the transfer of all or any part of unused and unencumbered balances appropriated for one purpose to another purpose, to appropriate available funds not included in the budget or to cancel in whole or in part any appropriation not expended or encumbered.

Section 1108. TAX PROCEDURE. The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, may be prescribed by the Council by ordinance. Unless otherwise provided by ordinance, the City shall continue to use, for the purpose of ad valorem municipal taxation of property, the county system of assessment and tax collection, as such system is now in effect or may hereafter be amended and insofar as such system is not in conflict with the provisions of this Charter.

If, in any year, the Council fails to fix the rate of and levy ad valorem property taxes on or before the final date on which, by virtue of any applicable law or ordinance, such rate can effectively be fixed and such taxes can effectively be levied for such year, then the rate for the preceding fiscal year shall be deemed automatically adopted for the current fiscal year and a tax at such rate shall be deemed automatically levied on all taxable property in the City for such current fiscal year.

Section 1109. TAX LIMITS. Except as otherwise provided in this section, the annual levy of ad valorem property taxes by the Council for municipal purposes shall not exceed the rate of one dollar on each one hundred dollars of the assessed value, for purposes of City taxation, of taxable property in the City, unless authorized by the affirmative votes of a majority of those electors voting on a proposition to increase such levy at any election at which the question of such additional levy is submitted to the electors of the City. The term of years during which such additional levy may or shall be made shall be specified in any such proposition so submitted. Such proposition may also restrict the use of the proceeds of the additional levy to a purpose or purposes specified in the proposition. Such a proposition may be so submitted by the Council on its own motion or the power of initiative may be used to require the submission of such a proposition.

The foregoing limit shall not apply to, and the Council shall levy and collect each year in the same manner as other property taxes for City purposes are levied and collected, a tax sufficient to pay, as the same fall due, all principal of and interest on any bonded indebtedness constituting a general obligation of the City; provided that nothing in this paragraph shall be construed to prevent the City from paying such principal or interest out of any other available revenues of the City.

The foregoing limit also shall not apply to, and the Council may levy and collect each year, taxes sufficient to provide for the establishment, operation and support of public parks, playgrounds and libraries,

and the operation and support of other recreational, cultural and public assembly facilities.

Section 1110. **BONDED DEBT LIMIT.** The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed fifteen percent of the total assessed value for purposes of City taxation of all the taxable real and personal property in the City. The City shall not incur any bonded indebtedness constituting a general obligation of the City unless such indebtedness is authorized by the affirmative votes of not less than two-thirds of those electors voting on the question of incurring such indebtedness at any election at which such question is submitted to the electors of the City.

Section 1111. **CLAIMS AGAINST CITY.** To the extent that pursuant to Section 10 of Article XI of the State Constitution the legislature has prescribed, by laws applicable to charter cities, procedures governing the presentation, consideration and enforcement of claims against cities or against officers, agents or employees thereof, such laws shall govern in such matters and shall, to the extent required by such laws, prevail over any provision of this Charter or any ordinance or regulation of the City which is inconsistent with such laws.

Section 1112. **DEMANDS.** All demands against the City except claims for damage must be in writing, must specify the date, nature and amount of each item included therein, and may be in the form of a bill, invoice, payroll or formal demand. Each such demand shall be presented to the Director of Finance within one year after the last item of the account or claim accrued, or within such shorter time as is otherwise prescribed by law. The Director of Finance shall examine and audit each such demand. If the amount thereof is legally due and there remains on his books an unexhausted balance of an appropriation against which the same may be properly charged, he shall approve such demand and draw and issue a warrant on the City Treasurer therefor, payable out of the proper fund. Otherwise he shall reject it.

Each such demand rejected by the Director of Finance shall be transmitted to the Council and the Council may overrule the objection of the Director of Finance and order a warrant for the payment thereof drawn and issued; provided, that if the demand is one for an item for which there does not remain an unexhausted balance of an appropriation against which the same may be properly charged, the Council shall not order a warrant for the payment thereof drawn and issued until it has amended or supplemented the budget, as in this Charter

provided, to make an appropriation against which such claim may be properly charged.

The Council may from time to time adopt such additional regulations as it may deem necessary for the orderly processing and payment of demands which regulations may include, but need not be limited to a requirement that certain types of demands or demands over a specified amount shall be approved by the City Administrator or by the Council before a warrant is issued in payment thereof.

The City Treasurer shall draw and issue a warrant, without approval of any body or officer, for payment of the principal of or interest on municipal or other bonds payable out of funds in the City Treasury, upon presentation and surrender of the bond or coupon evidencing the same.

Section 1113. CLAIMS FOR DAMAGE. Any claim for damages against the City, including any claim relating to a cause of action for death of, or for injury to, any person or for injury to property, shall be presented within the time, and shall be presented, considered and disposed of in the manner, specified by general law.

Section 1114. REGISTERING WARRANTS. A warrant on the City Treasurer not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of registration when funds are available therefor and shall bear interest from the date of registration at such rate as shall be fixed by the Council by resolution.

Section 1115. ACTIONS AGAINST CITY. No suit for money or damages shall be brought against the City or any officer, board of commission thereof, unless and until a claim or demand for the same has been presented as in this Charter provided any such claim or demand has been rejected in whole or in part.

Section 1116. INDEPENDENT AUDIT. Within ninety days after the beginning of each fiscal year, the Council shall employ a certified public accountant, or firm of certified public accountants, who shall examine, at such time or times as may be specified by the Council, the books, records, inventories and reports of all officers and employees who receive, handle or disburse City moneys and the books, records, inventories and reports of such other officers, employees or departments as the Council may direct. The accountant shall make to the Council such periodic reports as the Council may direct, and as soon as practicable following the close of the fiscal year, he shall make a final audit and report and present the same to the Council. The

Council shall not employ any accountant who, or any firm of accountants any member or employee of which, holds any City office or other City position.

Such accountant shall have the right and power to examine any or all books, papers and other records of the City or of any officer, department, employee, board or commission thereof.

ARTICLE XII REVENUE BONDS

Section 1201. **AUTHORITY TO ISSUE AND REQUIRED VOTE.** The City shall have the power to issue revenue bonds for the purpose of financing the acquisition, construction, extension, improvement or repair of any municipal utility or other revenue producing facilities, except utilities or facilities for the production, distribution or sale of electricity or gas, but no such bonds shall be issued unless the same shall first be authorized by the affirmative vote of a majority of those electors voting on the question of incurring such indebtedness at any election at which such question is submitted to the electors of the City. The Council may issue and sell bonds so authorized, may fix the terms and conditions thereof, and may make, fix and establish such covenants, conditions, terms and provisions as it deems necessary or desirable to facilitate the issuance and sale of the bonds or for the protection and security of the holders thereof. Bonds issued pursuant to this article shall not be general obligations of the City but shall be payable, principal and interest, solely from revenues or other special funds specifically pledged to that purpose.

ARTICLE XIII CONTRACTS

Section 1301. **IN GENERAL.** Except as otherwise provided in this Charter, the City shall not be bound by any contracts unless the same shall be made in writing, shall be authorized by resolution of the Council or by an officer or department head of the City authorized to make such contract under authority delegated to him by the Council in accordance with the provisions of this Charter or by resolution of a board or commission authorized by this Charter to make such

contract, and shall be signed on behalf of the City by the Mayor and City Clerk or by such one or more other officers or department heads as may be designated for that purpose by the Council or by the officer, department head, board or commission authorized to make such contract. The Mayor and City Clerk or any other officer or department head so designated to sign a contract shall sign the same when so directed by the Council, officer, department head, board or commission having the power to authorize such contract. Before any contract on behalf of the City is executed the same shall be approved as to form by the City Attorney by his endorsement thereon; provided, that the City Attorney may in writing approve for use, with such exceptions as he may designate, purchase order forms and other standard contract forms, and in such event and until such approval is revoked by the City Attorney, contracts on behalf of the City of the type for which such form was approved may be made in such form without the necessity of individual endorsement by the City Attorney on each contract so made.

Nothing in this section, or elsewhere in this Charter, shall be construed to prevent the Council from authorizing and establishing for any office or department a petty cash or similar fund, not exceeding an amount specified by the Council, out of which the officer or department head in charge of such office or department may make, or authorize the making of, purchases of supplies, materials or services not exceeding for any one item an amount specified by the Council.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility, by the head of the department in which such utility falls, or by the City Administrator, upon forms approved by the Council and approved as to form by the City Attorney and at rates fixed by the Council.

Section 1302. **CENTRALIZED PURCHASING.** Subject to the provisions of this Charter, the Council shall establish a centralized purchasing system for all City offices and departments; provided, that the Council, if it deems it necessary, may except one or more offices or departments from said system. The Council by ordinance shall establish the office or position of Purchasing Agent or shall provide that some other officer or employee of the City shall act as Purchasing Agent. Subject to the provisions of this Charter the Council by ordinance shall adopt rules and regulations governing the contracting for, purchasing, storing, distribution, use and disposal of all supplies, ma-

terials, equipment and other property and service required by any office or department of the City. Subject to the provisions of this Charter the Council by ordinance may delegate to the Purchasing Agent, to the City Administrator, and to other officers or department heads of the City the power and duty to make purchases and other contracts on behalf of the City for which there is an unexpended or unencumbered appropriation in the budget, under such rules and regulations as the Council may prescribe, which rules and regulations may require such officer or department head to call for competitive bids in specified instances. The Board of Library Trustees may establish for the library department a separate system for the contracting for, purchasing, storing, distribution, use and disposal of books, journals, publications, maps, audio-visual equipment and other personal property peculiar to the operation of the library department and in that event the provisions of this section shall not apply to the library department to the extent the provisions of this section are inconsistent with such separate system.

Section 1303. CONTRACTS TO BE LET BY COUNCIL ON COMPETITIVE BIDDING. Every contract involving a project for the construction, improvement, or repair of public buildings, public works, streets, drains, sewers, utilities, parks or playgrounds, and every contract for the purchase of supplies or materials for any such project, where the total contract price for the same exceeds the sum of twenty-five hundred dollars, shall be let by the Council to the lowest responsible bidder after notice published in a newspaper in the City at least once not later than ten days before the time fixed for opening bids. In the event that there is no newspaper published in the City, then such notice shall be posted in three public places in the City at least ten days before the time fixed for opening bids.

Even though the total expenditures required for a project may exceed the sum of twenty-five hundred dollars, separate contracts may be let without competitive bidding if the contract or contracts involving the same project let to the same contractor do not in total exceed the sum of twenty-five hundred dollars.

The Council may reject any and all bids. If no bids are received or if the Council determines that the bids received are not satisfactory, it may again advertise for bids in like manner or it may determine and declare that, in its opinion, based on estimates approved by the City Administrator, the work in question may be performed more economically by the City with its own employees or the supplies or materials

may be purchased more economically on the open market, and if the Council so determines and declares by resolution it may proceed to have such work performed by the City with its own employees or such supplies or materials purchased in the open market, without further observance of the provisions of this section.

The provisions of this section shall not apply to any project for the maintenance or repair of public buildings, public works, streets, drains, sewers, utilities, parks or playgrounds if the Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work. The provisions of this section also shall not apply to letting of any contract for work, supplies or material which the Council, by the affirmative vote of at least four-fifths of its then members, finds to be urgently needed for the immediate preservation of life, health or property.

Section 1304. ILLEGAL INTEREST IN CONTRACTS. No member of the Council or other officer or department head of the City shall have any financial interest in any contract, sale or transaction to which the City is a party if having such interest constitutes a violation of the State law pertaining to interest in contracts. Any such person having any such prohibited interest shall be guilty of a misdemeanor, and upon conviction thereof, in addition to such penalties as may be imposed by the court, such person shall forfeit his office. Any contract, sale or transaction in which there shall be any such prohibited interest shall become void at the election of the City when so declared by resolution of the Council.

ARTICLE XIV FRANCHISES

Section 1401. REQUIREMENT AND GRANTING OF FRANCHISES. Any person, firm or corporation furnishing the City or its inhabitants with water, light, heat, electricity, gas, power, transportation, communication, refrigeration, storage, terminal facilities or any other public utility product or service, or traversing any portion of the City for the transmitting or conveying of any such product or service elsewhere, or using or occupying public streets, alleys, ways or places within the City for any such purpose or for any other purpose, shall, to the extent the State Constitution permits the City to so require, be

required by ordinance to have a franchise from the City therefor. The Council may grant a franchise to any person, firm or corporation, whether operating under an existing franchise or not, and may prescribe the terms and conditions of any such grant, including the compensation to be paid to the City therefor. The Council may also provide, by procedural ordinance, the method of and procedure for the application for and granting of any such franchise and any other terms and conditions of such grants, or the making thereof, all subject to the provisions of this Charter.

Section 1402. PROCEDURE. Before granting any franchise, the Council shall adopt a resolution declaring its intention to grant the same and stating the name of the proposed grantee, the character of the proposed franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any person having any interest in or objecting to the granting of such franchise may appear before the Council and be heard thereon. Said resolution shall be published at least once, not less than ten days prior to said hearing, in a newspaper published in the City. In the event there is no newspaper published in the City, then said resolution shall be posted in three public places in the City at least ten days before said hearing.

Said hearing shall be held by the Council at the time and place so fixed and may be continued from time to time by order entered on the minutes. At said hearing the Council shall hear all persons desiring to be heard and shall pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution. No ordinance granting any franchise shall be adopted as an urgency ordinance to take immediate effect but shall be subject to the power of referendum as in this Charter provided.

Section 1403. TERM OF FRANCHISE. Every franchise shall state the term for which it is granted, which shall not exceed thirty-five years; provided, however, that a franchise granted for or in connection with a public utility subject to the jurisdiction, regulation and control of the State Public Utilities Commission may be indeterminate, that is to say, it may provide that it shall endure in full force and effect until the same, with the consent of said Public Utilities Commission or its successor, shall be voluntarily surrendered or abandoned by its possessor, or until the State of California, or some municipal or public

corporation, thereunto authorized by law, shall purchase by voluntary agreement, or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situated within the territorial limits of the State, municipal corporation or public corporation purchasing or condemning such property, or until such franchise shall be forfeited for noncompliance with its terms by its possessor.

Section 1404. EMINENT DOMAIN. No franchise, or grant of a franchise, shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the possessor thereof by purchase or condemnation, and nothing therein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to the property of the possessor of any franchise. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

Section 1405. RIGHT OF CITY TO USE POLES. In connection with the establishment, operation or maintenance by the City of any fire, police or other alarm, telephone or other communication system, the City shall have the right to use poles placed in the streets by any public utility company, whether or not such right has been expressly set forth and reserved in the franchise of such company.

ARTICLE XV

INITIATIVE, REFERENDUM AND RECALL

Section 1501. IN GENERAL. The powers of the initiative and referendum and of the recall of elected City officers are hereby reserved to the electors of the City. The provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended or superseded, governing the exercise of the powers of initiative and referendum in cities, and governing the exercise of the power of recall of municipal officers, shall apply to the exercise of those powers in the City insofar as such provisions are not in conflict with the provisions of this Charter.

ARTICLE XVI

DEFINITIONS AND MISCELLANEOUS

Section 1601. DEFINITIONS. Unless the provision or the context requires otherwise, the following terms as used in this Charter shall have the following meaning:

- (a) "Shall" is mandatory and "may" is permissive.
- (b) "City" is the City of Pomona and "office," "department," "board," "commission," "officer," "department head" or "employee" is an office, department, board, commission, officer, department head or employee, as the case may be, of the City of Pomona.
- (c) "County" is the County of Los Angeles.
- (d) "State" is the State of California.

Section 1602. VIOLATIONS. The violation of any provision of this Charter or of any ordinance of the City shall constitute a misdemeanor, and may be prosecuted in the name of the people of the State of California or may be redressed by civil action. Any such violation shall upon conviction be punishable by a fine of not exceeding five hundred dollars or by imprisonment for a term of not exceeding six months or by both such fine and imprisonment.

Section 1603. SEVERABILITY. If any provision of this Charter or the application thereof to any person or circumstances is held invalid, the remainder of the Charter and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 1604. HEADINGS. The headings given in this Charter to articles and sections thereof shall not affect the scope, meaning or intent of the provisions of this Charter.

Section 1605. EFFECTIVE DATE. This Charter shall take effect upon its approval by the State Legislature.

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